Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

APPENDIX.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1978.

No. 78-1335

CITIZENS FOR A BETTER ENVIRONMENT, AN ILLINOIS NOT FOR PROFIT CORPORATION, ET AL.,

Respondents,

vs.

VILLAGE OF SCHAUMBURG, ET AL.,

Petitioners.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

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* The Judgment Order of the District Court is included as Appendix B, pp. A13 through A16 to the Petition for Writ of Certiorari.

** The Opinion of the Court of Appeals is included as Appendix A, pp. A1 through A12 of the Appendix to the Petition for Writ of Certiorari. The opinion is also reported at 590 F. 2d 220 (1978).

APPENDIX.

IN THE UNITED STATES DISTRICT COURT
For the Northern District of Illinois
Eastern Division, No. 76 C 470

RELEVANT DOCKET ENTRIES.

Filed Complaint ..... February 10, 1976

Filed Plaintiff's motion for summary judgment and affidavit of Larry Hoellwarth with exhibits attached..... February 20, 1976

Filed Defendants, Village of Schaumburg, Martin J. Conroy, Herbert Aigner, Al Larson, Nels Hornstrom, Raymond Lebeau, James Rogers and Edward Olsen's Answer to Complaint for Declaratory Judgment and Injunction ..... March 4, 1976

Filed Appearance of Defendants, Village of Schaumburg, et al., with that of Jack M. Siegel as attorney ..... March 16, 1976

Order dater 2-25-77: Ordered that the complaint against Village of Willow Springs, Illinois be dismissed by agreement, as all matters in controversy herein have been settled. (Draft) Ordered that Village of Lisle, Village of Tinley Park, and the Village of Calumet Park are dismissed from the above cause by agreement. Further Ordered that Plaintiff's motions for summary judgment is granted as against the following defendants: Village of Palatine, IL, City of Harvey, IL,

Village of Elmwood Park, IL, Village of Glen Ellyn, IL (Draft) ..... March 1, 1977

By agreement of parties, complaint against City of North Chicago and Village of Alsip is dismissed ..... March 1, 1977

Clerk's file copy of transcript of proceedings had before the Honorable Prentice H. Marshall on December 13, 1976, filed by official court reporter..... March 10, 1977

Order dated 3-25-77: Ordered pursuant to rule 54(b) Plaintiff's motion for summary judgment is granted against defendant Village of Villa Park, IL., (Draft).. March 29, 1977

Order of June 10, 1977: Plaintiff granted leave to file amended complaint as to Village of Schaumburg ..... June 13, 1977

Filed Motion for summary judgment..... December 7, 1977

Filed Amended Complaint for Declaratory Judgment and Injunction ..... December 7, 1977

Order of December 7, 1977 granting Plaintiffs' motion to amend complaint; defendants to answer within 15 days.... December 8, 1977

Filed answer to Amended Complaint for Declaratory Judgment and Injunction.. December 12, 1977

Filed Defendants' Answer to Motion for Summary Judgment ..... December 15, 1977

Filed Affidavit attached to Plaintiff's reply memorandum of law in support of motion for summary judgment ..... December 23, 1977

Order of January 23, 1978 directing plaintiffs to prepare draft order..... January 23, 1978

Clerk's File Copy Transcript of Proceedings held January 23, 1978 before Judge Marshall filed by Official Court Reporter February 15, 1978

Enter Order dated February 17, 1978; enter Final Judgment; granting plaintiffs' motion for summary judgment (draft); enter Rule 58 judgment ..... February 22, 1978

Filed Notice of Appeal of defendant, Village of Schaumburg, from the order dated February 17, 1978 ..... March 9, 1978

Designated Portions of Record of Appeal. March 14, 1978

IN THE UNITED STATES COURT OF APPEALS

For the Seventh Circuit

No. 78-1384

Heard and taken under advisement..... September 18, 1978

Filed Opinion by Judge Fairchild..... December 1, 1978

Final Judgment Order affirmed with costs December 1, 1978

Filed notice of filing petition for certiorari from Supreme Court on February 28, 1979, Supreme Court No. 78-1335.... March 6, 1979

Mandate issued and record returned..... March 22, 1979

Filed Receipt for Mandate and record for District Court ..... March 28, 1979

UNITED STATES DISTRICT COURT

For the Northern District of Illinois

Eastern Division

CITIZENS FOR A BETTER ENVIRONMENT, AN ILLINOIS NOT-FOR-PROFIT CORPORATION, LARRY A. HOELLWARTH,

Plaintiffs,

vs.

VILLAGE OF SCHAUMBURG, ILLINOIS, MARTIN J. CONROY, HERBERT AIGNER, AL LARSON, NELS HORNSTROM, RAYMOND LEBEAU, JAMES ROGERS AND EDWARD OLSEN,

Defendants.

No. 76 C 470

AMENDED COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTION

Now comes the Plaintiffs, Citizens for a Better Environment, an Illinois Not-for-Profit Corporation, and Larry A. Hoellwarth, by their Attorney, Michael R. Berman, and complaining of the Defendants, Village of Schaumburg, Illinois, Martin J. Conroy, Herbert Aigner, Al Larson, Nels Hornstrom, Raymond Lebeau, James Rogers, and Edward Olsen.

JURISDICTION

1. Jurisdiction of this Court is invoked under Section 1 of the Fourteenth Amendment to the Constitution of the United States, Title 28, United States Code, Sections 1331, 1343(3) and 1651, and Title 42 United States Code, Sections 1983 and 1988.

2. The amount in controversy exceeds the sum of Ten Thousand Dollars ($10,000) exclusive of interest and costs.

PARTIES

3. The Plaintiff, Citizens for a Better Environment (herein referred to as "CBE") is an Illinois Not-for-Profit Corporation with its principal place of business in the City of Chicago, County of Cook and State of Illinois. It was organized for the purpose, among others, of protecting, maintaining, and enhancing the quality of the Illinois environment. It is registered and in good standing with the Illinois Attorney General's Charitable Trust Division and has been afforded tax-exempt (as well as tax-deductible) status by the United States Internal Revenue Service. That incident to its purpose, CBE employs "canvassers" who are engaged in door-to-door activity in the Chicago metropolitan area, endeavoring to distribute literature on environmental topics and answer questions of an environmental nature when posed; solicit contributions to financially support the organization and its program; receive grievances and complaints of an environmental nature regarding which CBE may afford assistance in the evaluation and redress of these grievances and complaints. This canvassing procedure is also an effective means of making the public aware of CBE as a source of assistance in the event that problems of an environmental nature arise in the future.

4. That the Plaintiff, Larry A. Hoellwarth, is an employee of CBE, and he devotes his full time to those duties. He is compencated in the form of wages for such service, which he depends upon for his livelihood. His duties include the direct responsibility for the canvassing operations of CBE, and his reputation depends, at least in part, upon the success of these canvassing operations.

5. That the Defendant, Village of Schaumburg, Illinois, is a Corporation, duly created pursuant to Illinois law.

6. That the Defendants, Herbert Aigner, Al Larson, Nels Hornstrom, Raymond Lebeau, James Rogers, and Edward Olsen (hereinafter referred to as "The Schaumburg Village Board"),

are the duly elected trustees of the Village of Schaumburg, Illinois.

7. That the Defendant, Martin J. Conroy, is the duly appointed Chief of Police for the Village of Schaumburg, Illinois.

Count I

FACTS

8. That the Defendants, Village of Schaumburg, Illinois, has enacted a solicitation ordinance on March 12, 1974, No. 1052, attached as Exhibit A, and made a part hereof, that requires nonprofit organizations to submit a written application to the Village Clerk in order to receive a permit.

9. That this ordinance was issued to CBE on November 15, 1977, by the Village Clerk's Office with the instruction that this is the ordinance under which nonprofit organizations must register.

10. That the defendants filed with their answer a section of the village code of Schaumburg, Chapter 22, §§ 22-1—22-24, attached as Exhibit B and made a part hereof, which defendants stated is in full force and effect.

11. That Chapter 22 of the Schaumburg code consists of Ordinance 1103 which was attached to CBE's original complaint and ordinance 1052 which was referred to in CBE's original complaint, and the only differences between the ordinances and their codification are insignificant.

12. That under ordinance 1052 and/or the code, Chapter 22, §§ 22-1—22-24, a charitable organization must apply to the village clerk for a permit before it is allowed to solicit contributions door-to-door.

13. That the Village Board issues the permit if all requirements of the ordinance and/or the code have been met.

14. That CBE has been requesting permission to canvass from the Village of Schaumburg since April 1973.

15. That Schaumburg received a final request for solicitation dated January 22, 1976.

16. That all requests have been denied.

17. That notwithstanding the said registration ordinance and the Village code, the Schaumburg Village Board, acting without legal authority, has arbitrarily and capriciously denied Plaintiffs' application for a permit.

18. Plaintiffs have applied for such permits although they have not and do not admit the validity of requiring permits for the operations of a charitable organization nor for the exercise of the constitutionally protected freedoms, privileges and immunities.

19. That such refusal by Schaumburg was without good cause shown and without affording Plaintiffs herein a hearing thereon.

20. That each ordinance, and specifically Section Three of Ordinance 1052 and Section 22-20 of Chapter 22 are so strict, odious and vague in requiring unreasonable information and criteria—including "Satisfactory proof that at least seventy-five per cent of the proceeds of such solicitations will be used directly for the charitable purpose of the organization"—as to be in violation of Plaintiffs' constitutional rights.

21. That on information and belief the Schaumburg Village Board does not uniformly enforce the 75% test and has granted permits to other charities who have failed to meet the test.

22. That on information and belief, other charitable organizations are not made to submit the unreasonable information demanded by the ordinance and/or the code, and therefore Plaintiffs' rights to equal protection of the laws and to due process have been violated.

23. That by reason of such refusal, Plaintiffs are under imminent threat of arrest and prosecution by the Chief of Police of the Village of Schaumburg, Illinois, should Plaintiffs seek to exercise their rights to canvass.

24. That by reason of their official positions, said Defendants, and each of them were cloaked with authority over Plaintiffs herein and under which authority, performed all of the acts or omissions herein alleged.

25. That at all times heretofore alleged, the Defendants, and each of them were acting pursuant to codes, statutes, regulations, ordinances, customs and usages of the State of Illinois, their respective municipalities, and under Color of Law.

26. That by reason of the acts or omissions of the Defendants as aforesaid alleged, the Plaintiffs were and are further being subjected to a deprivation of their right to free speech, to freedom of association, and to access to the Courts, thus depriving them of equal protection of the Laws and further depriving them of life, liberty and property without due process of Law, and further depriving individual Plaintiffs of rights, privileges and immunities, in violation of Section 1 of the Fourteenth Amendment to the Constitution of the United States.

27. That the Plaintiffs' interests have been, and will continue to be irreparably harmed, adversely affected and aggrieved by the foregoing unlawful acts of the Defendants unless relief issues from this Court.

28. That Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs pray:

A. That this Honorable Court enter a declaratory judgment declaring the action of the Trustees of the Village of Schaumburg, Illinois, denying CBE's request to conduct a solicitation drive in the Village of Schaumburg, Illinois, to be without authority, illegal, void, and in violation of Plaintiffs' rights.

B. That this Honorable Court issue a temporary and permanent injunction against the Defendants, and each of them prohibiting the harassment of the Plaintiffs and their solicitors during or in furtherance of their lawful rights to solicit and canvass in the Village of Schaumburg, Illinois.

C. That this Honorable Court determine the local solicitation ordinance unconstitutional or unconstitutional as applied to Plaintiffs, and that the Court declare that the actions of the Defendants in enforcing such law or ordinance are unconstitutional and that the Defendants, and each of them, be permanently enjoined from such enforcement.

D. That such injunction issue without bond for good cause shown.

E. For such other and further relief as this Court deems just and reasonable under the circumstances.

Count II

29. Plaintiffs reallege Paragraphs Eight (8) and Nine (9) of Count I.

30. That ordinance no. 1052, enacted on March 12, 1974, attached as Exhibit A and made a part hereof, purports to prohibit the seeking to obtain donations of money by a person without first having obtained a permit issued at the arbitrary discretion of the Schaumburg Village Board.

31. That said ordinance, and specifically Section Three thereof, is so strict, odious, and vague in requiring unreasonable information and criteria—including "Satisfactory proof that at lease seventy-five per cent of the proceeds of such solicitation will be used directly for the charitable purpose of the organization"—as to be in violation of Plaintiffs' constitutional rights.

32. That such ordinance and the threat of enforcement constitutes a prior restraint upon, and an unreasonable interference with the exercise of Plaintiffs' rights to freedom of speech, freedom of press, freedom of association and right to access to the courts as guaranteed them by the First Amendment to the Constitution of the United States and as applied by the Fourteenth Amendment to the Constitution of the United States.

33. That the Plaintiffs are under imminent threat of arrest and prosecution by the Chief of Police of the Village of Schaumburg should Plaintiffs seek to exercise their right to canvass.

34. That the Plaintiffs' interests have been, and will continue to be irreparably harmed, adversely affected and aggrieved by the foregoing unlawful ordinance unless relief issue from the Court.

35. That Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs pray:

A. That this Honorable Court issue a temporary and permanent injunction against the Defendants, and each of them, prohibiting the harassment of Plaintiffs and their solicitors during or in furtherance of their lawful rights to solicit and canvass in the Village of Schaumburg, Illinois.

B. That this Honorable Court determine the local solicitation ordinance unconstitutional or unconstitutional as applied to Plaintiffs, and that the Court declare that the actions of the Defendants in enforcing such law or ordinance are unconstitutional, and that the Defendants, and each of them, be permanently enjoined from such enforcement.

C. That such injunction issue without bond for good cause shown.

D. For such other and further relief as this Court deems just.

Count III

36. Plaintiffs reallege Paragraph Ten (10) of Count I.

37. That Chapter 22, §§ 22-1—22-24, of its Village Code attached as Exhibit B and made a part hereof, purports to prohibit the seeking to obtain donations of money by a person without first having obtained a permit issued at the arbitrary discretion of the Schaumburg Village Board.

38. That said ordinance, and specifically Section Three thereof, is so strict, odious, and vague in requiring unreasonable

information and criteria—including "Satisfactory proof that at least seventy-five per cent of the proceeds of such solicitation will be used directly for the charitable purpose of the organization"—as to be in violation of Plaintiffs' constitutional rights.

39. That such ordinance and the threat of enforcement constitutes a prior restraint upon, and an unreasonable interference with the exercise of Plaintiffs' rights to freedom of speech, freedom of press, freedom of association and rights to access to the courts as guaranteed them by the First Amendment to the Constitution of the United States and as applied by the Fourteenth Amendment to the Constitution of the United States.

40. That the Plaintiffs are under imminent threat of arrest and prosecution by the Chief of Police of the Village of Schaumburg should Plaintiffs seek to exercise their right to canvass.

41. That the Plaintiffs' interests have been, and will continue to be irreparably harmed, adversely affected and aggrieved by the foregoing unlawful ordinance unless relief issue from the Court.

42. That Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs pray:

A. That this Honorable Court issue a temporary and permanent injunction against the Defendants, and each of them, prohibiting the harassment of Plaintiffs and their solicitors during or in furtherance of their lawful rights to solicit and canvass in the Village of Schaumburg, Illinois.

B. That this Honorable Court determine the local solicitation ordinance unconstitutional or unconstitutional as applied to Plaintiffs, and that the Court declare that the actions of the Defendants in enforcing such law or ordinance are unconstitutional, and that the Defendants, and each of them, be permanently enjoined from such enforcement.

C. That such injunction issue without bond for good cause shown.

D. For such other and further relief as this Court deems just.

CITIZENS FOR A BETTER ENVIRONMENT
By: /s/ MICHAEL R. BERMAN
Michael R. Berman
Its Attorney

Michael R. Berman, Esq.
59 East Van Buren, Suite 2610
Chicago, Illinois 60605
(312) 939-1530

Dated: December 2, 1977

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

LARRY A. HOELLWARTH, being first duly sworn on oath, deposes and says that he has read the above and foregoing Complaint and that the same is true in substance and in fact.

/s/ LARRY A. HOELLWARTH
Affiant

Subscribed and sworn to before me this 2nd day of December 1977.

/s/ MIME BARR
Notary Public

Exhibit A

ORDINANCE NO. 1052
AN ORDINANCE REGULATING SOLICITING BY CHARITABLE ORGANIZATIONS

Be it Ordained by the President and Board of Trustees of the Village of Schaumburg:

SECTION ONE: It shall be unlawful for any person, organization, firm or corporation to solicit contributions to a purported charitable organization without first complying with the requirements of this ordinance and obtaining a permit from the Village Board.

SECTION TWO: For the purpose of this ordinance, the following words and phrases shall have the following meanings unless a different meaning is required by the context:

a. *Charitable Organization.* Any benevolent, philanthropic, patriotic, not-for-profit, or eleemosynary group, association or corporation, or such organization purporting to be such, which solicits and collects funds for charitable purposes.

b. *Contribution.* The promise or grant of any money or property of any kind or value, including payments for literature in excess of the fair market value of said literature.

c. *Charitable Purpose.* Any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose.

SECTION THREE: Every charitable organization, which solicits or intends to solicit contributions from persons in the Village by door-to-door solicitation or the use of public streets and public ways, shall prior to such solicitation apply for a permit. Said application shall be made to the Village Clerk and shall include the following information:

a. The name of the organization and the name under which it intends to solicit contributions.

b. The name and address of the person in charge of solicitation in the Village.

c. The names and addresses of all the persons who will solicit contributions in the Village.

d. The dates and times of day such solicitations are to be made and the geographic area within the Village wherein such solicitation shall be conducted at a particular time and day.

e. A written statement of recent date by the Attorney General of Illinois that the organization has complied with the provisions of "An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes," Illinois Revised Statutes, Chapter 23, Section 5101, and such statute as it may hereafter be amended.

f. Satisfactory proof that the organization is a tax exempt organization under the Internal Revenue Code of the United States, Section 501(c)(3).

g. Satisfactory proof that at least seventy-five per cent of the proceeds of such solicitation will be used directly for the charitable purpose of the organization. For such purposes, the following items shall not be deemed to be used for the charitable purposes of the organization, to wit:

(1) Salaries or commissions paid to solicitors;

(2) Administrative expenses of the organization, including, but not limited to, salaries, attorneys' fees, rents, telephone, advertising expenses, contributions to other organizations and persons except as a charitable contribution and related expenses incurred as administrative or overhead items.

For the purpose of satisfying the requirements of subparagraph g., the organization shall submit a certified audit of the last full year of operations, indicating the distribution of funds collected by the organization, or such other comparable evidence as may demonstrate the fact that at least seventy-five percent of the funds collected are utilized directly and solely for the charitable purpose of the organization.

SECTION FOUR: No permit issued under the provisions of this ordinance shall permit solicitation before the hour of 9:00 a.m. and after the hour of 6:00 p.m., or on Sunday. Nothing herein provided shall permit a solicitor to go upon any premises which has posted a sign indicating "No Solicitors Allowed" or words of similar import.

SECTION FIVE: It shall be unlawful for any charitable organization to utilize as a solicitor any person who has been convicted of a felony or is presently under indictment for a felony.

SECTION SIX: Each application for a charitable solicitation permit shall be accompanied by a fee in the amount of Ten Dollars ($10.00).

SECTION SEVEN: All applications shall be submitted to the Village Clerk and shall be verified under oath by a responsible officer of the soliciting organization. All completed applications shall be submitted by the Village Clerk to the Village Board. If the Village Board shall find and determine that all requirements of this ordinance have been met, a permit shall be issued specifying the dates and times at which solicitation may take place.

SECTION EIGHT: Any person, firm or corporation violating the provisions of this ordinance shall be fined not more than Five Hundred Dollars ($500.00) for each such offense.

SECTION NINE: This ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

Ayes: Trustees Guthrie, Kessell, Aigner, LeBeau.

Nays: None.

Passed and Approved this 12th day of March, 1974.

/s/ ROBERT O. ATCHER
Village President

Attest: /s/ SANDY CARSELLO
Village Clerk.

Exhibit B

Peddlers and Solicitors

CHAPTER 22.

PEDDLERS AND SOLICITORS.

For state law as to transient merchants generally, see Ill. Rev. Stat., ch. 121½, §§ 158 to 165. As to itinerant merchants by vehicle, see Ill. Rev. Stat., ch. 121½, §§ 165.1 to 165.17.

As to citations in lieu of complaint for certain offenses, see §§ 12-2 to 12-5 of this Code. As to licenses generally, see ch. 17. As to use of noise devices on vending vehicles, see § 18-4. As to noises generally, see § 20-41. As to weights and measures generally, see ch. 32.

Article I. In General.

§§ 22-1 to 22-5. Reserved.

Article II. For Profit Peddlers and Solicitors.

§ 22-6. Definitions.
§ 22-7. Licenses—Required.
§ 22-8. Same—Applications; disposition of fee if license refused on moral grounds; registration book.
§ 22-9. Same—Investigation and certification of applicant.
§ 22-10. Same—Fees.
§ 22-11. Same—Revocation.
§ 22-12. Fraud; sale of goods, etc., not covered by license.
§ 22-13. Hours of operation.
§ 22-14. Limitations on parking.
§ 22-15. Notices of refusal of invitation.
§ 22-16. Conduct.
§ 22-17. Erection of signs at village limits.
§ 22-18. Penalties.

Article III. Charitable Organizations.

§ 22-19. Definitions.
§ 22-20. Permits—Required; contents of application.
§ 22-21. Same—Submission and verification of applications; issuance.
§ 22-22. Same—Fee.
§ 22-23. Indicted or convicted felons or solicitors.
§ 22-24. Hours; entering premises posted for "no soliciting."

Article I. In General.

Secs. 22-1 to 22-5. Reserved for future legislation.

Article II. For Profit Peddlers and Solicitors.

Sec. 22-6. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Peddler. Any person who, going from place to place, shall at retail sell, offer for sale, sell and deliver, barter or exchange any goods, wares, merchandise, wood, oil, fish, fruits, vegetables, country produce or any other article or thing whatsoever or any service from a vehicle or otherwise. It shall not include a serviceman who, responding to a prior call, sells replacement merchandise.

Solicitor. Any person who, going from place to place, without prior appointment or pre-arrangement with the customer, shall take orders for future delivery at retail of any merchandise or other article or thing, or any service. (Ord. No. 1103, § 1.)

Sec. 22-7. Licenses—Required.

No person shall engage in the business of a peddler or solicitor within the village without first having obtained a license therefor as provided in this article. (Ord. No. 1103, § 2.)

Sec. 22-8. Same—Applications; disposition of fee if license refused on moral grounds; registration book.

An application for a peddler's or solicitor's license shall be made to the village collector in conformity with the general requirements of this Code and other village ordinances relating to applications for licenses. Such applications shall also set forth the number of vehicles, if any, intended to be operated, the kind of merchandise to be peddled or offered for order, the permanent address of the applicant, the name of the partnership, corporation or proprietorship for whom the applicant works, the name of the supervisor of the applicant, the telephone number of the parent firm, and cities of previous solicitation; and further, whether such applicant has ever had a revocation of any peddler's or solicitor's licenses, whether he has ever been convicted for a violation of similar peddlers and solicitors ordinances, whether he has ever been arrested or convicted of a misdemeanor or felony, and if so, why. Each application shall be accompanied by the annual fee as hereinafter prescribed. Should the application be refused because the applicant upon investigation is not found to be a person of good and moral character and reputation, as based on answers given on the license application, the license fee shall be deemed to have covered the cost of investigation and shall not be returned to the applicant. The applicant shall register in a book provided for such purpose in the office of the village collector. (Ord. No. 1103, § 3.)

Sec. 22-9. Same—Investigation and certification of applicant.

The chief of police shall, upon request from the village collector, make or cause to be made an investigation to determine the character and reputation of the applicant. No license shall be issued to any applicant who is not found to be a person of good character and reputation or to any firm, corporation, partnership or association which is not represented in the village by a person found to be of good character and reputation. The chief of police shall certify to the village collector the issuance or

denial of a permit under the provisions of this article within thirty days of the application. (Ord. No. 1103, § 4.)

Sec. 22-10. Same—Fees.

The annual fee for a peddler's or solicitor's license shall be ten dollars; except, that if a peddler or solicitor uses a vehicle other than a private automobile in his business, the annual fee shall be twenty-five dollars per vehicle. (Ord. No. 1103, § 5.)

Sec. 22-11. Same—Revocation.

Any such license may be revoked by the village manager because of any violation of this article or for any other provision of this Code or other ordinances of the village or of any state or federal law or whenever the registrant shall cease to possess the qualifications and character required in this article for the original registration. (Ord. No. 1103, § 12.)

Sec. 22-12. Fraud; sale of goods, etc., not covered by license.

It shall be unlawful for any peddler or solicitor to cheat, deceive or fraudulently misrepresent, whether through himself or through an employee, while acting as a peddler or solicitor in the village or to barter, sell or peddle any goods, merchandise or wares other than those specified in his application for a license. (Ord. No. 1103, § 6.)

Sec. 22-13. Hours of operation.

No soliciting or peddling shall be permitted before the hour of 9:00 A.M. or after the hour of 6:00 P.M. within the village, and no peddling or soliciting shall be conducted on Sundays; provided, that vending of food from trucks on the public ways shall be on all days between sunup and sunset. (Ord. No. 1103, § 7.)

Sec. 22-14. Limitations on parking.

No peddler or solicitor may park on public property in a given place for longer than fifteen minutes after the time of his sale or

solicitation of an order at that place, and after the expiration of such fifteen minutes, he shall move on to a different location which is at least one village block away. (Ord. No. 1103, § 8.)

Sec. 22-15. Notices of refusal of invitation.

Notice of the determination of the occupant's refusal of invitation to any solicitors or peddlers shall be given in the following manner:

A weatherproof card, at least three inches by four inches in size, shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

"NO SOLICITORS OR PEDDLERS INVITED."

The letters shall be at least one-third inch in height. For the purpose of uniformity, the cards shall be provided by the village collector to persons requesting, at the cost thereof.

Such card so exhibited shall constitute sufficient notice to any solicitor or peddler of the determination of the occupant of the residence of the information contained thereon. (Ord. No. 1103, § 9.)

Sec. 22-16. Conduct.

It shall be the duty of every solicitor or peddler, upon going onto any premises in the village upon which a residence as herein defined is located, to first examine the notice provided for in this article, if any is attached, and be governed by the statement contained on the notice. If the notice states "no solicitors or peddlers invited," then the solicitor or peddler, whether registered or not, shall immediately and peacefully depart from the premises.

Any solicitor or peddler who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant. (Ord. No. 1103, § 10.)

Sec. 22-17. Erection of signs at village limits.

The director of public works is hereby directed to post appropriate signs at the limits of the village with the following language:

"SOLICITORS AND PEDDLERS MUST BE LICENSED AND REGISTERED. APPLY AT SCHAUMBURG MUNICIPAL BUILDING, 101 SCHAUMBURG COURT."

Sec. 22-18. Penalties.

Any person violating the provisions of this article shall be fined not more than five hundred dollars for each such offense. (Ord. No. 1103, § 13.)

Article III. Charitable Organizations.

For state law as to solicitation of funds for charitable purposes, see Ill. Rev. Stat., ch. 23, § 5101 et seq.

Sec. 22-19. Definitions.

For the purpose of this article, the following words and phrases shall have the following meanings unless a different meaning is required by the context:

Charitable organization. Any benevolent, philanthropic, patriotic, not-for-profit, or eleemosynary group, association or corporation, or such organization purporting to be such, which solicits and collects funds for charitable purposes.

Charitable purpose. Any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose.

Contribution. The promise or grant of any money or property of any kind or value, including payments for literature in excess of the fair market value of said literature. (Ord. No. 1052, § 2.)

Sec. 22-20. Permits—Required; contents of application.

Every charitable organization, which solicits or intends to solicit contributions from persons in the village by door-to-door

solicitation or the use of public streets and public ways, shall prior to such solicitation apply for a permit. Said application shall be made to the village clerk and shall include the following information:

(a) The name of the organization and the name under which it intends to solicit contributions.

(b) The name and address of the person in charge of solicitation in the village.

(c) The names and addresses of all the persons who will solicit contributions in the village.

(d) The dates and times of day such solicitations are to be made and the geographic area within the village wherein such solicitation shall be conducted at a particular time and day.

(e) A written statement of recent date by the Attorney General of Illinois that the organization has complied with the provisions of "An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes," Illinois Revised Statutes, chapter 23, section 5101, and such statute as it may hereafter be amended.

(f) Satisfactory proof that the organization is a tax exempt organization under the Internal Revenue Code of the United States, section 501(c)(3).

(g) Satisfactory proof that at least seventy-five per cent of the proceeds of such solicitations will be used directly for the charitable purpose of the organization. For such purposes, the following items shall not be deemed to be used for the charitable purposes of the organization, to wit:

(1) Salaries or commissions paid to solicitors;

(2) Administrative expenses of the organization, including, but not limited to, salaries, attorneys' fees, rents, telephone, advertising expenses, contributions to other organizations and persons, except as charitable contribution and related expenses incurred as administrative or overhead items.

For the purpose of satisfying the requirements of subparagraph (g), the organization shall submit a certified audit of the last full year of operations, indicating the distribution of funds collected by the organization, or such other comparable evidence as may demonstrate the fact that at least seventy-five per cent of the funds collected are utilized directly and solely for the charitable purpose of the organization. (Ord. No. 1952, § 3.)

Sec. 22-21. Same—Submission and verification of applications; issuance.

All applications shall be submitted to the village clerk and shall be verified under oath by a responsible officer of the soliciting organization. All completed applications shall be submitted by the village clerk to the village board. If the village board shall find and determine that all requirements of this article have been met, a permit shall be issued specifying the dates and times at which solicitation may take place. (Ord. No. 1952, § 7.)

Sec. 22-22. Same—Fee.

Each application for a charitable solicitation permit shall be accompanied by a fee in the amount of ten dollars. (Ord. No. 1052, § 6.)

Sec. 22-23. Indicted or convicted felons as solicitors.

It shall be unlawful for any charitable organization to utilize as a solicitor any person who as been convicted of a felony or is presently under indictment for a felony. (Ord. No. 1052, § 5.)

Sec. 22-24. Hours; entering premises posted for "no soliciting."

No permit issued under the provisions of this article shall permit solicitation before the hour of 9:00 A.M. and after the hour of 6:00 P.M., or on Sunday. Nothing herein provided shall permit a solicitor to go upon any premises which has posted a sign indicating "no solicitors or peddlers invited." (Ord. No. 1052, § 4.)

I, MICHAEL R. BERMAN, certify that I served copy of the foregoing Motion and Amended Complaint to Siegel, Stonesifer & Jentsch, Ltd., 39 South LaSalle, Room 919, Chicago, Illinois 60603, by depositing the copy in the U. S. mail at 59 East Van Buren Street, Chicago, Illinois, with proper postage affixed.

/s/ MICHAEL R. BERMAN
Michael R. Berman

Dated: December 2, 1977

MICHAEL R. BERMAN, ESQ.
59 East Van Buren, Suite 2610
Chicago, Illinois 60605
(321) 939-1530

UNITED STATES DISTRICT COURT

* * (Caption—76 C 470) * *

ANSWER TO AMENDED COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTION

Now comes the Defendants, Village of Schaumburg, Martin J. Conroy, Herbert Aigner, Al Larson, Nels Hornstrom, Raymond LeBeau, James Rogers, and Edward Olsen, Defendants herein by Jack M. Siegel, their attorney, and in answer to the Amended Complaint for Declaratory Judgment and Injunction heretofore filed herein, say as follows:

JURISDICTION

1. In answer to paragraph 1 Defendants deny that this Court has jurisdiction under Section 1 of the Fourteenth Amendment to the Constitution of the United States, Title 28, United States Code, Sections 1331, 1343(3) and 1651, and Title 42 United States Code, Sections 1983 and 1988. Defendants further aver that there are no substantial federal questions involved herein and that there is no violation of the Fourteenth Amendment or any of the statutes enumerated in paragraph 1 by virtue of the ordinances of the Village of Schaumburg or the acts of the Defendants here.

2. Defendants deny that the amount in controversy exceeds the sum of Ten Thousand Dollars ($10,000) exclusive of interest and costs and aver that there are no allegations in said Amended Complaint to support said allegation of jurisdiction.

PARTIES

3. In answer to paragraph 3 the Defendants say they have no knowledge sufficient to form a belief as to the truth of the allegations therein contained and further aver that the facts

alleged in said paragraph 3 even if true, would not be relevant or material to the issues in this case with the exception that the Defendants state on information and belief that the CBE employs "canvassers" who solicit funds for the purported purposes of the organization.

4. In answer to paragraph 4 of said Amended Complaint Defendants say that they have no knowledge sufficient to form a belief as to the truth of said allegations and neither admit nor deny said allegations but demand strict proof thereof.

5. In answer to paragraph 5 Defendants admit that the Village of Schaumburg is a municipal corporation and further avers that it is a home-rule municipality under the Constitution of the State of Illinois.

6. In answer to paragraph 6 Defendants admit that Herbert Aigner, Al Larson, Raymond Lebeau and Edward Olsen are members of the Board of Trustees of the Village of Schaumburg. Defendants aver that James Rogers and Nels Hornstrom are no longer members of the Board of Trustees of said Village.

7. Defendants admit the allegations of paragraph 7 of said Amended Complaint.

Count I

FACTS

8. In answer to paragraph 8 Defendants admit that the Village enacted Ordinance No. 1052 on March 12, 1974, but aver that said Ordinance has now been codified as part of the Schaumburg Village Code, adopted in 1975. Defendants aver that said Ordinance speaks for itself and requires a permit application to be made to the Village Clerk.

9. In answer to paragraph 9 Defendants say that they have no knowledge sufficient to form a belief as to the truth of the allegations therein contained and neither admit nor deny said allegations, but say that said allegations are irrelevant and immaterial for the reason that as appears on the face of said

Complaint no demand or application for permit was made on or after November 15, 1977.

10. In answer to paragraph 10 Defendants admit that Section 22-1-22-24 regulate peddlers and solicitors in the Village of Schaumburg, but aver that the Plaintiff herein purports to be a charitable organization and is therefore subject to the provisions of Section 22-19 through Section 22-24 of the Schaumburg Village Code.

11. In answer to paragraph 11 of said Amended Complaint Defendants admit that present Chapter 22 of the Schaumburg Village Code consists of former Ordinance 1103 and former Ordinance 1052, but aver that Ordinance 1103 which was attached to CBE's original complaint does not purport to regulate a charitable organizations or organizations of the character of CBE.

12. Defendants admit the allegations of paragraph 12.

13. Defendants admit the allegations of paragraph 13.

14. In answer to paragraph 14 Defendants say that the CBE has heretofore requested permission to canvass in the Village of Schaumburg, but deny said request has persisted since April of 1973.

15. In answer to paragraph 15 Defendants say that they are unable to answer with certainty whether a final request for solicitation was dated January 22, 1976.

16. In answer to paragraph 16 Defendants admit that any requests have been denied, but aver that the Plaintiff, CBE has been informed of the requirements of the Ordinance and ask to submit documentation in support of their application in accordance with the Ordinance.

17. In answer to paragraph 17 Defendants deny that the Schaumburg Village Board has acted without legal authority or is arbitrarily and capriciously denied the Plaintiff's application for permit. Defendants say that the Village stands ready to issue a permit if the Plaintiff or any other applicant meets the requirements of the Village Code and avers that the acts of the Village Board have been in accordance with law and have not been arbitrary or capricious.

18. In answer to paragraph 18 Defendants aver that if Plaintiffs apply for such permits and meet the requirements of said Ordinances of the Village of Schaumburg, permits will be granted.

19. In answer to paragraph 19 Defendants deny that the refusal by the Village of Schaumburg was without good cause shown and aver that good cause was the failure to comply with valid Ordinances of the Village of Schaumburg. Defendants further aver that no hearing was ever requested and that no hearing is required under the Ordinances of the Village of Schaumburg.

20. In answer to paragraph 20 Defendants deny that each Ordinance and specifically Section Three of Ordinance 1052 and Section 22-20 of Chapter 22 are so strict, odious or vague as to be in violation of Plaintiffs constitutional rights. Defendants further aver that said Ordinances and each and every provision thereof are in all respects a valid and constitutional exercise of a police power vested in the Village of Schaumburg under the constitution and laws of the State of Illinois.

21. In answer to paragraph 21 Defendants deny that the Village of Schaumburg Village Board does not uniformly enforce the provision of the 75% test and say that said allegations are nothing but the inaccurate and totally unsupported conclusions of the pleader.

22. In answer to paragraph 22 Defendants deny that other charitable organizations are not required to submit information demanded by the Ordinance and deny that the Plaintiffs rights to equal protection of the laws and due process have been violated.

23. In answer to paragraph 23 Defendants deny that the Plaintiffs are under imminent threat of arrest and prosecution by

the Chief of Police of the Village of Schaumburg. Defendants further aver however, that if Plaintiffs violate municipal ordinances, they as all other persons who violate the ordinances of the Village of Schaumburg will be prosecuted for said ordinance violations.

24. In answer to paragraph 24 Defendants say that the adoption of said Ordinance was undertaken pursuant to the authority vested in the corporate authorities of the Village of Schaumburg by the Constitution and Laws of the State of Illinois and further aver that Defendants possess the authority vested in them as Trustees of the Village of Schaumburg.

25. In answer to paragraph 25 Defendants admit that all acts taken by them were taken pursuant to the authority vested in the Defendants and the Village of Schaumburg by the Constitution and Laws of the State of Illinois, but deny that said acts were merely under Color of Law and aver that all acts taken were in full compliance with the valid constitutional provisions and statutes of the State of Illinois and the valid Ordinances of the Village of Schaumburg.

26. In answer to paragraph 26 Defendants deny each and every allegation of said paragraph 26. Defendants specifically deny that the Plaintiffs were and are further being subjected to a deprivation of their right to free speech, freedom of association, or to access to the Courts. Defendants deny that the Plaintiffs have been denied equal protection of the law or have been denied life, liberty and property without due process of law and deny that any Plaintiffs have been denied rights, privileges or immunities in violation of the Fourteenth Amendment.

27. In answer to paragraph 27 Defendants deny that the Plaintiffs interests have been or will continue to be irreparably harmed, adversely affected by any of the acts of the Defendants and further deny that there have been any unlawful acts of the Defendants.

28. Defendants deny the allegations of paragraph 28.

WHEREFORE, Defendants respectfully pray that this Honorable Court dismiss Count I of said Amended Complaint for failure to state a cause of action and for failure to set forth facts showing wherein this Court has jurisdiction to grant any relief requested.

Count II

29. In answer to paragraph 29 Defendants reallege the answers to paragraphs 8 and 9 of Count I.

30. In answer to paragraph 30 Defendants admit that said Ordinance 1052 requires a permit, but denies that said permit is issued at the arbitrary discretion of the Village Board and avers that the Village Board is without authority to deny a permit to any person or organization which meets the requirements of said Ordinance.

31. In answer to paragraph 31 Defendants deny that said Ordinance, specifically Section Three thereof, is so strict, odious or vague as to be in violation of Plaintiffs constitutional rights and aver that said Ordinance and specifically Section Three thereof is in all respects a valid and constitutional exercise of the police power of the Village of Schaumburg granted pursuant to the Constitution and Laws of the State of Illinois. Defendants further aver that the standards set forth in said Ordinance are in all respects valid, specific and definite and are reasonably related to the objectives of the Ordinance.

32. In answer to paragraph 32 Defendants deny that said Ordinance and threat of enforcement constitutes a prior restraint upon, or an unreasonable interference with the exercise of Plaintiffs' rights to freedom of speech, freedom of press, freedom of association and rights to access to the courts and deny that the Ordinance in any way violates the First Amendment to the Constitution of the United States or the Fourteenth Amendment to the Constitution of the United States.

33. In answer to paragraph 33 Defendants deny that the Plaintiffs are under imminent threat of arrest and prosecution by

the Chief of Police of the Village of Schaumburg, but aver that in the event the Plaintiffs seek to violate the ordinances of the Village of Schaumburg they, like all other persons violating the ordinances of the Village of Schaumburg, will be prosecuted.

34. In answer to paragraph 34 Defendants deny that the Plaintiffs interests have been or will continue to be irreparably harmed or adversely affected or aggrieved by the foregoing ordinance and deny that said ordinance is unlawful.

35. In answer to paragraph 35 Defendants deny that the Plaintiffs have no adequate remedy at law.

WHEREFORE, Defendants respectfuly pray that Count II of said Amended Complaint be dismissed for failure to state a cause of action and for failure to show wherein federal jurisdiction may properly be invoked.

Count III

36. In answer to paragraph 36 Defendants reallege the answer to paragraph 10. of Count I.

37. In answer to paragraph 37 Defendants admit that no solicitation to obtain donations of money may take place without first having obtained a permit as required by ordinance, but deny that the permit is issued at the arbitrary discretion of the Schaumburg Village Board. Defendants aver that all persons meeting the requirements of said ordinance are entitled to permits and are so issued permits by the Village of Schaumburg.

38. In answer to paragraph 38 Defendants deny that said ordinance and specifically Section Three is so strict, odious or vague as to be in violation of the Plaintiffs constitutional rights and aver that said ordinance is in all respects a valid and constitutional exercise of the police power vested in the Village of Schaumburg by the Constitution and Laws of the State of Illinois.

39. In answer to paragraph 39 Defendants deny that such ordinance and the threat of enforcement constitutes a prior re-

straint upon, and an unreasonable interference with the exercise of Plaintiffs' rights to freedom of speech, press and association and access to the courts and deny the allegations of paragraph 39 and specifically deny that said ordinance violates in any manner the First or Fourteenth Amendment to the Constitution of the United States.

40. In answer to paragraph 40 Defendants deny that the Plaintiffs are under imminent threat of arrest and prosecution by the Chief of Police of the Village of Schaumburg, but aver that if Plaintiffs like all other persons, violate the ordinances of the Village of Schaumburg, they will be subject to prosecution.

41. Defendants deny the allegations of paragraph 41 and specifically deny that the Plaintiffs' interests have been or will continue to be irreparably harmed, adversely affected or aggrieved by said ordinance and deny that said ordinance is unlawful.

42. Defendants deny that the Plaintiffs have no adequate remedy at law.

43. As affirmative defense the Plaintiffs say on information and belief that the CBE is primarily devoted to raising funds for the benefit and salary of its employees and that its charitable purposes are negligible as compared with the primary objective of raising funds. Defendants further say and information and belief that more than 60% of the funds collected have been spent for benefits of employees and not for any charitable purposes.

In support of said allegations the Defendants submit herewith as Exhibit A an article appearing in the Suburban Trib for Southwest Cook County on Wednesday, November 10, 1976.

44. As further and affirmative defenses the Defendants say that the ordinances of the Village of Schaumburg relating to charitable organizations and the solicitation of funds are in all respects valid and constitutional exercise of a legislative author-

ity vested in the President and Board of Trustees by the Constitution and Statutes of the State of Illinois.

45. Defendants further aver that there is no absolute right under the Federal Constitution to enter upon the private premises of another and knock on a door for any purpose and the police power permits reasonable regulation of public safety. That door to door canvassing and solicitation are not immune from regulation under the State's police power whether the purpose of the regulations is to protect from danger or to protect the peaceful enjoyment of the home. That the ordinances of the Village of Schaumburg are so directed.

WHEREFORE, it is respectfully prayed that Count III of said Complaint be dismissed for failure to state a cause of action and for failure to set forth facts sufficient to envoke the jurisdiction of the Federal Courts.

VILLAGE OF SCHAUMBURG, ET AL.
Defendants

By /s/ JACK M. SIEGEL
Jack M. Siegel
Their Attorney

C.B.E. v. Schaumburg

Suburban Trib
Southwest Cook County
Wednesday, Nov. 10, 1976

Is $$ real cause in clean-air fight?

Suburban Task Force Report

A college student, petition in hand, rings the doorbell of a suburban home.

"Hi, I'm Chuck Smith of the Illinois Public Action Council. We're talking to people in your neighborhood today about common problems like utility rate increases and we need your help," he tells the residents who answers.

If the resident queries him extensively on the organization, he'll probably leave. More likely, he'll find that not much explanation is needed to collect a signature and his real objective — a cash donation.

THIS SCENARIO, repeated daily throughout the suburbs, illustrates how two closely related organizations — Citizens for a Better Environment [CBE] and the Illinois Public Action Council — have raised more than $1 million in the suburbs in the last five years with a quick-sell, door-to-door sales program.

Chances are that most of this money was donated by people with only sketchy knowledge of the organization they were donating to, and of how their money would be spent.

USING A quick-sell approach to complex political issues, two closely related Chicago groups have raised more than $1 million in the suburban area in the last five years. In a three-part series beginning today, the Suburban Task Force examines the background, solicitation practices, and accomplishments of Citizens for a Better Environment and the Illinois Public Action Council. The series was researched by Thomas Witosky, Richard Keeton, Abigail Foerstner, and Art Barnum and written by Mary Swanton.

They probably didn't know that an average of 63 cents of every dollar they donated to CBE went to pay salaries of the organizations' employes.

THEY PROBABLY are unaware of CBE's history of legal problems in New York and Illinois.

If their home town has a municipal solicitation ordinance, they probably didn't know that CBE has diverted some of the money it has collected to seek court rulings overturning those ordinances.

Contributors to both organizations probably don't realize the close relationship between the two groups.

These are some of the facts uncovered by the Suburban Task Force in an extensive study of the two groups.

THE PICTURE that emerges from the study is a complex one. It points up the problems of funding a citizens organization, even one with laudable goals and many accomplishments.

It shows that the fund-raising technique developed by the two organizations and now serving as a model for similar groups around the country — the use of paid, door-to-door solicitors — can lead to abuses that tarnish the organizations' image.

Since its founding in 1971, CBE has developed a program of research and legal action primarily directed at forcing private industries and government agencies to clean up air and water pollution.

THE ILLINOIS Public Action Fund, predecessor to the Illinois Public Action Council, was formed in November, 1974, as the fund-raising and lobbying arm of CBE. However, that purpose was dropped in October, 1975, when the group was renamed and consolidated with the Illinois Council for Citizens Action.

Since then, Public Action has established a statewide federation of 22 citizens lobby groups interested in such issues as utility rates, neighborhood preservation, and land-use planning.

The two organizations have raised about 80 per cent of their total funding through door-to-door solicitation in the suburbs.

Although solicitors for the two organizations are instructed to tell potential contributors that the organizations are unrelated, the Suburban Task Force found the following:

- The two groups share the 26th floor of an office building at 59 E. Van Buren St., Chicago.
- Marc B. Anderson, founder of CBE, was cofounder of Public Action.
- Three members of the Public Action board of directors have held positions with CBE.
- The groups coordinate their fund-raising activities.

Anderson first denied to Suburban Task

Please turn to page 2

Fund raisers' approach is hard sell

From page 1

reporters that the two groups are related. He subsequently admitted that the organizations jointly schedule their solicitation efforts and sometimes hold joint briefing sessions.

HE SAID, HOWEVER, that it is accurate for fund raisers to deny there is a relationship between the groups because CBE is an environmental research group while Public Action is forming a statewide citizens lobby.

Suburban Task Force reporters talked to more than 20 past and present employes of both organizations and found that all — even those who quit in internal disputes — believe that the organizations are making significant accomplishments.

However, more than two-thirds of the $290,399 collected by CBE in fiscal year 1974-75 was spent on salaries and employe health benefits. Similar, though slightly smaller percentages, have been spent on salaries each year since CBE's founding.

IN 1972-73 ABOUT 51 per cent of the salary expenditures went to fund raisers and solicitors, with the balance to researchers and program organizers. A similar percentage of the salary expenditures apparently has gone to solicitors in recent years, but exact figures aren't available.

The Illinois Public Action Council's predecessor organization devoted approximately 59 per cent of the $55,727 collected in the six months prior to May 31, 1975, to salaries and staff health benefits.

About 69 per cent of the salaries were paid to solicitors and fund raisers, and 31 per cent to program organizers. These percentages may be unusually high because this was the first six months of the group's operation.

THESE FIGURES, on file with the Illinois attorney general's office, contrast with salary and benefit costs of 27 per cent for the American Cancer Society [Illinois Division]; 15 per cent for the Heart of Illinois United Way organization; and 22 per cent for the Chicago chapter of the National Multiple Sclerosis Society.

However, supporters of the two organizations claim that such comparisons are unfair for two reasons. First, large charities have access to volunteer solicitors. Anderson contends that fund raising by paid solicitors is the only way to sustain a statewide or

Please turn to page 6

Quick sell of an issue benefits fund seekers

From page 2

metropolitan citizens organization.

Second, some large charities simply dole out grants, while CBE and Public Action must pay researchers and organizers to develop and implement their programs.

"WHEN YOU LOOK at the percentage of funds spent on programs," Anderson said, "these organizations [CBE and Public Action] are in the upper 50 per cent of nonprofit organizations." A former researcher for CBE said he had studied other citizen action groups and found CBE to be one of the most efficient.

The now-defunct New York City branch of CBE apparently was somewhat less than efficient, however. A spokesman for the New York State Board of Social Welfare, the agency that audited the New York branch's books, said that the financial records "were unsatisfactory and sloppy."

"There were missing checks and some of those checks had been made out to cash," he said.

WHEN ANDERSON closed the New York office in September, 1973, after 15 months of operation, some of the financial records disappeared. Weltman & Co. of Chicago, auditors for CBE, refused to verify the finances of the last 3½ months of the New York operation because of the missing books. Neither Anderson nor anyone else contacted by the Suburban Task Force could explain the disappearance.

Shortly after the office was closed, the New York attorney general's office filed suit against CBE, charging the organization had perpetrated a "fraud upon the public" by using 74 per cent of the $175,808 collected in fiscal year 1972-73 for administration and fund-raising expenses. The suit never came to trial because of the demise of the New York organization.

ANDERSON AND others said the New York venture failed because CBE tried to expand without first developing a trained management team. They said they believe that the suit could have been settled successfully if a good management team could have been formed.

The organization's legal troubles in New York weren't its first. In 1971, Illinois Atty. Gen. William J. Scott filed suit against CBE for violating state law by failing to register its solicitors. He also charged CBE with falsely claiming in printed material and in solicitation speeches that CBE was working to "increase the size of the attorney general's staff and consequently their effectiveness in the fight against pollution."

The suit was settled with a consent decree in which CBE agreed to change its solicitation pitch and to register its solicitors.

DONALD G. MULACK, chief of the Charitable Trusts and Solicitation Division of the Illinois attorney general's office, said in a recent interview that although his office is convinced of CBE's commitment to environmental issues, it continues to monitor the group's solicitation practices, registration of solicitors, and allocation of funds.

Next: A look at door-to-door canvassing as a fund-raising tool for citizens groups.

Money skill a full-time job

IN 1970, a frustrated young high school dropout was selling encyclopedias and dreaming of a more challenging career.

One night, while talking to fellow salesmen, the idea hit him. "If we can sell encyclopedias," a former associate recalls him saying, "then we can come up with something that sells the environment in the same way."

Although Marc B. Anderson denies the story, he has obviously used the sales techniques of his encyclopedia experience in developing the fund-raising methods of Citizens for a Better Environment [CBE] and its offshoot, the Illinois Public Action Council.

IN DOING SO, Anderson, 30, of Chicago, has developed a national reputation for success in funding citizens action organizations that he is using to build a new career as a consultant to community groups throughout the country.

In July, Anderson left CBE to devote more time to his newly formed consulting service, the Hudson Bay Co. of Chicago. He remains on the board of Public Action.

His new business, which already is operating in seven states, will show other activist groups how to use quick sell door-to-door solicitations to raise funds.

DESPITE HIS success and growing reputation, Anderson also has his critics. One former staff member said that although he respected Anderson's organizational abilities, he questioned his motives.

"I guess I'll always wonder whether Marc was doing all this for the improvement of the environment or because he was in it for the money," the former staff member said.

In a recent interview, Anderson denied that he was trying to use social issues for great personal gain.

"I GOT INTO this because I'm basically a person who likes the country, nature, and fresh air. At the time I founded CBE, I was truly concerned about our environment and decided to do something about it," Anderson said.

But Anderson also believes that people in community action work deserve better salaries than they historically have received.

"To keep good, professional organizers, there must be a way to pay them adequately. I don't think those people should be expected to live on $700 a month anymore."

ANDERSON ESTIMATES his own income for this year at a modest $16,000 to $18,000, although he expects the Hudson Bay Co. to gross $60,000 to $70,000 this year. He was paid until July at his annual CBE salary of $12,500, and he continues as a paid board member of Public Action.

David D. Comey, of Chicago, who succeeded Anderson as head of CBE, agrees with Anderson that employes of citizen action groups should be well paid.

Comey holds the dual posts of executive director and director of research, which has been split before Anderson's departure, and is paid $37,500 a year, "probably one-fourth of what I would make in private industry."

UNITED STATES DISTRICT COURT

* * (Caption—76 C 470) * *

MOTION FOR SUMMARY JUDGMENT

Now Come the Plaintiffs, Citizens for a Better Environment, and Larry Hoellwarth, by their attorney, Michael R. Berman, and move this Honorable Court, upon the pleadings herein and upon all the records, files, and proceedings in this cause, for Summary Judgment in favor of Plaintiffs on the ground that there is no genuine issue as to any material fact, and Plaintiffs are entitled to judgment as a matter of law.

In support of this Motion, Plaintiffs herewith file their Memorandum of Law.

/s/ MICHAEL R. BERMAN
Michael R. Berman
Attorney for Plaintiffs

Dated: December 2, 1977

MICHAEL R. BERMAN, ESQ.
59 East Van Buren, Suite 2610
Chicago, Illinois 60605
(312) 939-1530

STATE OF ILLINOIS } ss.
COUNTY OF COOK }

LARRY A. HOELLWARTH, being first duly sworn on oath, deposes and states that he is of legal age, that he is competent to testify as to the matters herein stated, and if called to testify, would testify on personal knowledge, as follows:

1. That he is employed by Citizens for a Better Environment (CBE).

2. That his duties with CBE include the direct supervision and control of the canvassing program.

3. CBE is an Illinois Not-for-Profit Corporation, incorporated in 1971. Its stated corporate purposes include: "to encourage and assist the conservation of the environment, to provide educational and informational materials and programs concerning the environment and, in general, to promote the protection of the environment."

4. CBE is in good standing with the Charitable Trusts Division of the Office of the Illinois Attorney General and has been granted both tax-exempt and tax-deductible status by the United States Internal Revenue Service.

5. CBE employs a staff of "canvassers," who are screened, trained and observed prior to hire. Following their training, each canvasser is registered with the office of the Illinois Attorney General. Each canvasser attends regular seminars on a twice-a-week basis throughout their period of employment to keep them current on developments in the environmental movement.

6. CBE is almost entirely supported by small contributions from individual citizens. Thus the door-to-door canvass is the single most important source of funds for its continued program.

7. Yearly, CBE canvasses nearly every Northeastern Illinois community. The canvass activity normally occurs during the late afternoon and early evening hours (approximately 4 to 9 P.M.)

and canvassers approach all residences not posted with "No solicitors invited" or "No trespassing" notices.

8. In the door-to-door canvass, representatives distribute informative pamphlets on environmental subjects and on CBE activities, answer questions posed by residents, accept pollution complaints on a form provided for follow-up investigation and possible action by CBE, accept signatures to a statement of citizen's support to CBE's program, upon which thousands upon thousands of signatures have been collected, and accept contributions from such residents.

9. The canvass in a particular community is preceded by acquisition by CBE of the necessary permits, registration or approval from the respective governmental bodies for the specific dates of canvass.

10. That CBE has requested such permission to canvass from the Village of Schaumburg, since, to wit April 1973.

11. That the Village of Schaumburg has denied a request on May 22, 1973, and persists in such denial.

12. That the defendant municipality received a final request for solicitation dated January 22, 1976.

/s/ LARRY A. HOELLWARTH
Affiant

Subscribed and sworn to before me this 2nd day of December 1977.

/s/ MIMI BARR
(SEAL) *Notary Public*

UNITED STATES DISTRICT COURT.

* * (Caption—76-C-470) * *

ANSWER TO MOTION FOR SUMMARY JUDGMENT

Now comes the Village of Schaumburg, et al., Defendants herein by Jack M. Siegel and in Answer to the Motion for Summary Judgment heretofore filed herein says as follows:

1. Said Motion for Summary Judgment is improper for the reason that there are genuine issues as to material facts and the Plaintiffs are not entitled to judgment as a matter of law.

2. That the Complaint fails to set forth facts showing wherein the Plaintiffs have been denied any federally protected constitutional or statutory rights, but the allegations of said Complaint are merely the unsupported legal conclusions of the pleader.

3. That there is a presumption of validity attaching to the ordinances of the Village of Schaumburg and the Complaint fails to state facts sufficient to overcome presumption of validity.

4. That the ordinances of the Village of Schaumburg are proper exercises of a legislative authority vested in the President and Board of Trustees of the Village of Schaumburg and are directed to the protection of citizens of the Village of Schaumburg and are intended to protect the peaceful enjoyment of the home. *Hynes* v. *Mayor of Oradell*, 425 U. S. 610, 48 L. Ed. 2d 243. That the regulation of charitable organizations is in all respects a valid exercise of said legislative authority and the ordinance and Article Three of Chapter 22 of the Schaumburg Village Code sets forth clear and specific standards which are reasonably related to the objectives of said ordinance.

WHEREFORE, it is respectfully prayed that said Motion for Summary Judgment be denied.

In support of this Answer the Defendants herewith file their Memorandum of Law.

/s/ JACK M. SIEGEL
Jack M. Siegel
Attorney for Defendants

SUPPLEMENTAL AFFIDAVIT FILED DEC. 23, 1978 AS APPENDIX TO PLAINTIFFS REPLY MEMORANDUM IN SUPPORT OF MOTION OR SUMMARY JUDGMENT.

STATE OF ILLINOIS }
COUNTY OF COOK } ss.

KENNETH M. ARWAY, being first duly sworn on oath, deposes and states that he is of legal age, that he is competent to testify to the matters herein stated, and if called to testify would testify on personal knowledge, as follows:

1. I am Director of Development for Citizens for a Better Environment.

2. In 1975 CBE's certified audit shows that 23.3% of its income was spent on fundraising and that 21.5% of its income was spent on administration .

3. In 1976 CBE's certified audit shows that 23.3% of its income was spent on fundraising, while 16.5% of its income was spent on management.

4. CBE has an in-house research staff. This research staff consists in part of an expert on nuclear power, a physicist, a biochemist, a geneticist, an expert on electric utilities and a research associate.

KENNETH M. ARWAY

Subscribed and sworn to before me this 23rd day of December 1977.

/s/ PATRICIA TREANOR
(SEAL) *Notary Public*

IN THE UNITED STATES DISTRICT COURT
* * (Caption—76 C 470) * *

TRANSCRIPT OF PROCEEDINGS

had in the above-entitled cause before the Honorable Prentice H. Marshall one of the Judges of said Court, in his courtroom in the United States Courthouse, Chicago, Illinois, on Monday, January 23, 1978, at 9:30 o'clock a.m.

Present:

Michael Berman, Esq., on behalf of plaintiff.

[2] The Clerk: 76 C 470, Citizens For A Better Environment vs. Justice, for ruling.

Mr. Berman: Michael Berman for Citizens For A Better Environment.

The Court: How are you, Mr. Berman.

This is an action by a plaintiff, Citizens For A Better Environment, an Illinois Not For Profit corporation, and Larry A. Hoellwarth, who is employed by the plaintiff Citizens For A Better Environment, against the defendant, Village of Schaumburg, Illinois and various of the public officials of Schaumburg, Martin J. Conroy, Herbert Aigner, Al Larson, Nels Hornstrom, Raymond Lebeau, James Rogers and Edward Olsen, in which the plaintiffs challenge certain provisions of an ordinance regulating soliciting by charitable organizations adopted by the Village Board of the Village of Schaumburg, upon the ground that the ordinance impermissibly infringes plaintiff's First Amendment rights, and, therefore, violates the First Amendment and the Fourteenth Amendment to the Constitution of the United States.

The action is here under Sections 1983 and 1988 of Title 42, and jurisdiction is here under Section 1343(3) of Title 28.

The ordinance in question evidently has been codified as a part of Chapter 22 of the Village's Code.

A great deal has been written on the subject of [3] these solicitation ordinances. We have written an opinion in this case

in which originally there were a number of defendants, in which we have expressed our views with regard to the constitutional requirements for regulation and solicitation by charitable or political action groups, and just recently the Court of Appeals in a rather unusual action published within the last couple of weeks a decision which it had rendered in September of 1975, in Citizens For A Better Environment vs. The City of Park Ridge, dealing with the Park Ridge antisolicitation ordinance.

One never knows what occasions the Court of Appeals, two and a half years after it's decided a case by a memorandum order, to issue a printed opinion, but it came at a fortuitous time as far as I was concerned, and I assume that the reason the Court of Appeals did it is to give those of us in the District Court some guidance, because the Citizens For A Better Environment have been very vigorous in their efforts to get out from under impermissible restraints.

I am not going to write anything in this case. I think I have written enough on the subject.

I have reviewed the papers. The matter is here on the plaintiff's motion for summary judgment. I've reviewed the papers and I find several difficulties with the defendants' ordinance. I find those difficulties on its face, and I find that there is no need for an evidentiary hearing [4] of any type.

[4] The plaintiff doesn't seem to challenge the definition of charitable organization, so I shan't do anything with it, although I say in passing that I have some difficulty with it, particularly when it is applied to an organization such as the CBE which, while it enjoys charitable status under the Illinois Act to regulate solicitation and collection of funds for charitable purposes, and evidently enjoys tax exempt status under the Internal Revenue Code of the United States, one can argue that the Citizens For A Better Environment is not a traditional charitable operation. It is an information-gathering and information-dissemination and, as I think I characterized it a few moments ago, at times it is akin to a political action group using political action in its

broadest sense. But it does not quarrel with its need to meet certain of the standards of the Schaumburg ordinance. It does not quarrel with the requirement that it demonstrate that it has complied with the Illinois Act, and it doesn't quarrel with the requirement that it show that it is a tax exempt organization to the Internal Revenue Code, because it alleges in its complaint that it is both of those things.

What it particularly challenges is subparagraph (g) of Section 3 of the Schaumburg Code—excuse me, of the Schaumburg Ordinance, and the Code provisions which appear in subsection (g) of Section 22-20.

[5] I believe that its challenge is valid or well-founded. The application of subsection (g) to the activities of the Citizens For A Better Environment, in my opinion, exposed the plaintiff to exactly the same vices which were presented to the Supreme Court in Snyder against State, 308 US 147, back in 1939.

I believe that the strictures of that subsection provide a subtle form of censorship. I think that it is reasonable for a city to want to know who its canvassers are to require them to register as is required under the ordinance, but I just don't see that the city, in this area, has any legitimate interest in the tests that it prescribes in subsection (g), and that those tests do constitute an impermissible restraint on the exercise of First Amendment rights.

As I construe the ordinance, it appears to me—and perhaps, Mr. Berman, you can correct me if I am wrong—but it appears to me that once (g)—subsection (g) is out of the case, the plaintiff will be entitled to a permit under the balance of the ordinance.

Mr. Berman: It appears that way to me, too.

The Court: And the language of the ordinance is mandatory that the Village Board shall issue a permit.

So, for the present, I think that we will content ourselves with declaring subsection (g) of Section 3 of the Ordinance, and subsection (g) of Section 22-20 of the Code [6] invalid, and we will direct you, Mr. Berman, to prepare a declaratory judgment in accord with what we have said here today.

Mr. Berman: I do have one thing on that. In Section 7 of the Ordinance, it says, "If the Village Board shall find and determine that all requirements of this Ordinance have been met, a permit shall be issued."

That seems somewhat mandatory, but the Citizens For A Better Environment have had a problem in the past even when it appears to be a mandatory ordinance, because a lot of times we have been denied the permit, which seems to be an ongoing problem.

The Court: Well, include in your judgment, Mr. Berman, a direction on the defendants to issue the permit. You have complied with the ordinance now, and I think you are entitled to the permit. So include in the judgment order an order on the defendants to issue the permit. Okay.

Mr. Berman: Okay. I guess—the only other issue is about length of time for them to act on our request, is another problem we have.

The Court: We are going to direct them to issue you the permit.

Mr. Berman: Sometimes it takes them several months to meet—

The Court: Forthwith.

[7] Mr. Berman: Thank you very much, your Honor. On the motion—or the decision from the Seventh Circuit, Citizens For A Better Environment had petitioned the Seventh Circuit to publish that order.

The Court: Is that how it happened?

Mr. Berman: Because of all the ongoing problems we had, we felt it would be important enough for them to publish, and they were kind enough to do that.

The Court: Okay. Once we get that order, that will close this case out, so get it in to me, will you, Mr. Berman.

Mr. Berman: Okay, we will.

Which were all the proceedings had in the above-entitled matter on the day and date aforesaid.

[8] IN THE UNITED STATES DISTRICT COURT

* * (Caption—76 C 470) * *

CERTIFICATE

I Hereby Certify That the above and foregoing transcript, consisting of Pages 1 to 7, inclusive, is a full, true and accurate transcript of the official shorthand notes taken in the hearing of the above-entitled cause on Monday, January 23, 1978.

/s/ RICHARD H. DAGDIGIAN
Richard H. Dagdigian
Official Court Reporter, United States District Court, Northern District of Illinois

UNITED STATES DISTRICT COURT
Northern District of Illinois
Eastern Division

Name of Presiding Judge, Honorable Prentice H. Marshall.

Case No. 76 C 470 Date, Feb. 17, 1978

Title of Cause—Citizens for a better environment v. Village of Justice.

Brief Statement of Motion—Order.

Enter Final Judgment. Plaintiffs' motion for summary judgment on Count I is granted. The action of the Village of Schaumburg denying CBE permission to canvass and solicit funds in the Village is declared in violation of the constitutional rights of CBE. The Village of Schaumburg is enjoined from further prohibition of the CBE canvass and solicitation of funds and is ordered to issue a permit to canvass and solicit funds to CBE forthwith. Draft

IN THE UNITED STATES DISTRICT COURT

* * (Caption—76 C 470) * *

FINAL JUDGMENT.

The Plaintiffs in this action are the Citizens for a Better Environment (CBE), an Illinois not-for-profit corporation, and a certain named employee of the organization. CBE's major source of financial support consists of small contributions from individual citizens. CBE wishes to conduct a door-to-door fund-raising canvass in the defendant village, Schaumburg, Illinois. In Count I, the Plaintiffs contend that the Village of Schaumburg's refusal to allow a CBE canvass deprives them of their rights guaranteed by the first and fourteenth amendments to the United States Constitution. Counts II and III of the Complaint charge that Village of Schaumburg's solicitation ordinance violates the first and fourteenth amendments. Count II challenges the Ordinance as enacted by the Village of Schaumburg, and Count III challenges its subsequent codification.

CBE seeks: (1) judgment declaring the ordinance void and an injunction prohibiting its enforcement; and (2) judgment declaring the Village Board's action void and an injunction prohibiting further interference with the Plaintiffs' right to canvass Schaumburg. CBE now moves for summary judgment. This motion is now ready for decision on the pleadings, exhibits, and memoranda submitted by the parties.

The Schaumburg ordinance regulates charitable solicitation. All prospective solicitors must first procure a charitable solicitation permit from the Village. The applicant must submit information, including the name of the organization and the name under which it intends to solicit contributions, the name and address of the person in charge of solicitation in the Village, the names and addresses of all persons who will solicit contributions in the Village, the dates and times of day such solicitations are

to be made, and the geographic area within the Village wherein such solicitation shall be conducted at a particular time and day, a written statement of recent date by the Attorney General of Illinois that the organization has complied with the provisions of "An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes," satisfactory proof that the organization is a tax-exempt organization under the Internal Revenue Code of the United States, § 501(c)(3), and satisfactory proof that at least seventy-five percent of the proceeds of such solicitations will be used directly for the charitable purpose of the organization.

Chapter 22, § 20(g), of the Schaumburg Village Code states the following:

> (g) Satisfactory proof that at least seventy-five percent of the proceeds of such solicitations will be used directly for the charitable purpose of the organization. For such purposes, the following items shall not be deemed to be used for the charitable purposes of the organization, to wit:
>
> (1) Salaries or commissions paid to solicitors;
>
> (2) Administrative expenses of the organization, including, but not limited to, salaries, attorneys' fees, rents, telephone, advertising expenses, contributions to other organizations and persons, except as a charitable contribution and related expenses incurred as administrative or overhead items.
>
> For the purpose of satisfying the requirements of subparagraph (g), the organization shall submit a certified audit of the last full year of operations, indicating that distribution of funds collected by the organization, or such other comparable evidence as may demonstrate the fact that at least seventy-five per cent of the funds collected are utilized directly and solely for the charitable purpose of the organization. (Ord. No. 1052, § 3.)

CBE's main concern is with this particular requirement.

Through the years, the United States Supreme Court has enunciated definitive guidelines for application when the gov-

ernment's right to regulate clashes with first-amendment freedoms. Plainly, the government may regulate solicitation in order to protect the community from fraud. A city may, for example, require the solicitor to appear and establish his identity and authority to act in behalf of the cause he represents. *Cantwell* v. *Connecticut*, 310 U. S. 296, 306 (1940). Any action impinging upon the freedom of expression and discussion, however, must be minimal, and intimately related to an articulated, substantial government interest. As noted in *NAACP* v. *Button*, 371 U. S. 415, 438 (1963), "[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedoms." In a long line of cases the Court has consistently invalidated statutes and ordinances that permit a public official to exercise broad discretion in granting or denying the right to engage in constitutionally protected activities; e.g., *NAACP* v. *Button, supra; Staub* v. *City of Baxley*, 355 U. S. 313 (1958); *Martin* v. *City of Struthers*, 319 U. S. 141 (1943); *Cantwell* v. *Connecticut*, 310 U. S. 296 (1940); *Schneider* v. *State*, 308 U. S. 147 (1939).

In this Court's decision of February 25, 1977, in this case entered regarding the Village of Palatine, this Court stated:

> . . . Also constitutionally impermissible, is the provision of the ordinance requiring the applicant to supply "such additional information as the Chief of Police" of the Village of Palatine requests.
>
> This provision authorizes the Chief of Police in his discretion to solicit information about an organization's views and practices, and to deny a permit on the basis of his evaluation of those views and practices.
>
> In fact, this appears to be what happened. Exhibit 4 of the Hoellwarth affidavit is a letter from the Village Board denying plaintiffs the right to solicit because in the Board's view, the majority of plaintiffs contribution do not make their way to plaintiffs' chartered function. This is a form of censorship prohibited by the Supreme Court.

The Schaumburg requirement that 75% of the proceeds of a solicitation will be used directly for the charitable purpose of the organization before a permit will be issued is also constitutionally impermissible.

It does not make any difference that in this case a similar requirement was codified by the Village Board of Schaumburg instead of imposed by the Chief of Police.

The Village of Schaumburg's soliciting ordinance mandates the issuance of a permit to any person or group that can meet its requirements. CBE was apparently denied the right to solicit in the Village of Schaumburg only because it did not comply with this requirement in § 20(g) since CBE is able and willing to comply with the other requirements and does not challenge them at this time.

The Plaintiffs' Motion for Summary Judgment on Counts II and III is granted insofar as Section 20(g) of Chapter 22 of the Village of Schaumburg Code and § 3(g) of Village of Schaumburg ordinance entitled "An Ordinance Regulating Soliciting by Charitable Organizations" and numbered 1052 are declared unconstitutional and void on their face, and their enforcement against CBE is hereby enjoined.

The Plaintiffs' Motion for Summary Judgment on Count I is granted. The action of the Village of Schaumburg denying CBE permission to canvass and solicit funds in the Village is declared in violation of the constitutional rights of CBE. The Village of Schaumburg is enjoined from further prohibition of the CBE canvass and solicitation of funds and is ordered to issue a permit to canvass and solicit funds to CBE forthwith.

Enter:

/s/ PRENTICE H. MARSHALL
Judge

Dated: February 17, 1978.

UNITED STATES DISTRICT COURT

* * (Caption—76 C 470) * *

JUDGMENT

This action came on for hearing before the Court. Honorable Prentice H. Marshall, United States District Judge, presiding, and the issues having been duly heard and a decision having been duly rendered,

It is Ordered and Adjudged Final Judgment Entered. Plaintiffs' motion for summary judgment on Count I is granted. The action of the Village of Schaumburg denying CBE permission to canvass and solicit funds in the Village is declared in violation of the constitutional rights of CBE. The Village of Schaumburg is enjoined from further prohibition of the CBE canvass and solicitation of funds and is ordered to issue a permit to canvass and solicit funds to CBE forthwith.

Dated at Chicago, Illinois, this 17th day of February, 1978.

H. STUART CUNNINGHAM
Clerk of Court

By: /s/ RITA L. DUMAS
Deputy Clerk

UNITED STATES DISTRICT COURT

* * (Caption—76 C 470) * *

NOTICE OF APPEAL

Notice is hereby given that the Village of Schaumburg, one of the defendants herein, hereby appeals to the United States Court of Appeals for the Seventh Circuit from the final judgment order entered in this action on the 17th day of February, 1978, which order granted the plaintiffs' motion for summary judgment and held that the action of the Village of Schaumburg denying the plaintiffs permission to ca ass and solicit funds violated the constitutional rights of the plaintiffs, and further provided that the Village of Schaumburg was enjoined from further prohibition of the plaintiffs' canvass and solicitation of funds, and was ordered to issue a permit to canvass and solicit funds to the plaintiffs forthwith, all in accordance with a certain draft order.

/s/ JACK M. SIEGEL
Attorney for Village of Schaumburg, Defendant

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